

the National Shipping Authority for services rendered in connection with the husbanding and conduct of the business of dry cargo vessels assigned to General Agents under the standard form of Service Agreement GAA, March 19, 1951, as prescribed in NSA Order No. 47. (AGE-4 of this chapter).

Sec. 2. Terms.

The terms employed in this order shall have the same meaning as those contained in NSA Order No. 47.

Sec. 3. Preparation of invoices.

(a) Pursuant to Article 4 of the Service Agreement, the General Agent shall prepare monthly invoices for compensation earned during the preceding month under the applicable provisions of NSA Order No. 47.

(1) Invoices shall be prepared so as to show separately husbanding services and other services in conducting the business of the vessels.

(2) Husbanding services shall be stated to indicate the names of all vessels delivered to the General Agent during the month involved, the number of days each vessel was serviced or operated by the General Agent during the month, rate of compensation per day, and the amount produced by the calculation.

(3) Services in conducting the business of the vessels shall be stated to indicate the name of the vessel, the voyage number, the amount of revenue, the rate of compensation, and the amount produced by the calculation; and, in the instance of vessels employed in MSTTS service, the number of days the vessels were so employed, the rate of compensation per day, and the amount produced by the calculation.

(b) Invoices shall be certified by a duly authorized officer of the General Agent as follows:

I certify that this invoice is correct and just, that it is a correct statement of the compensation calculated in accordance with the provisions of NSA Order No. 47 due the undersigned General Agent for the month of _____ under Service Agreement No. _____ made as of _____ with the National Shipping Authority, and that payment thereof has not been received.

Name of General Agent

Signature

Title

Sec. 4. Method of payment.

The General Agent shall prepare check drawn on the NSA Special bank account for countersignature by an authorized representative of the Owner. All such payments to the General Agent shall be considered as payments on account and are subject to post-audit by the Owner.

Sec. 5. Accounting.

The General Agent shall record the amounts of compensation paid from the NSA Special bank account in its agency books, in the following designated accounts:

Account 887—Husbanding Compensation.

Account 888—All Other Compensation.

This account shall be maintained to show separately compensation paid under sections 3(a), 3(b), 3(c), and 3(d) of NSA Order No. 47.

NOTE: Invoices and account books referred to in the above order, shall be retained until the completion of the audit by the General Accounting Office, at which time the Maritime Administration will take custody of the records.

[16 FR 2885, Apr. 3, 1951, as amended at 21 FR 8105, Oct. 23, 1956. Redesignated at 45 FR 44587, July 1, 1980]

PART 326—MARINE PROTECTION AND INDEMNITY INSURANCE UNDER AGREEMENTS WITH AGENTS

Sec.

326.1 Purpose.

326.2 Insurer.

326.3 Insured.

326.4 Reports of accidents and occurrences.

326.5 Report of claims.

326.6 Settlement of claims.

326.7 Litigation.

AUTHORITY: 50 U.S.C. App. 1744; 46 U.S.C. 121a; 1114(b); 49 CFR 1.66.

SOURCE: 53 FR 37572, Sept. 27, 1988, unless otherwise noted.

§326.1 Purpose.

This part states that the Maritime Administration (MARAD) shall be responsible for providing or obtaining marine protection and indemnity (P&I)

Maritime Administration, DOT

§ 326.6

insurance for any vessel that has been placed in the National Defense Reserve Fleet (NDRF), which includes the Ready Reserve Force component, which vessel is assigned under a General Agency Agreement. These various forms of Agreements are entered into by the United States, acting by and through the National Shipping Authority, MARAD, and a private company (Agent). An agreement also contains procedures for the Agent to report accidents and occurrences of a P&I nature to MARAD and to report and settle P&I claims.

§ 326.2 Insurer.

MARAD shall be responsible for providing or obtaining P&I insurance for all vessels assigned to Agents under an Agreement. At its election, MARAD may be a self-insurer of any one or more vessels covered by the Agreement, or may obtain P&I insurance coverage under one or more policies written by underwriters of marine insurance. MARAD shall determine the amount of coverage to be provided or obtained.

§ 326.3 Insured.

The insureds are: The United States of America, acting by and through the Director, National Shipping Authority, Maritime Administration, Department of Transportation, and its Agents (including Agents' employees). Sub-agents shall be insureds only as expressly provided in the Agreement. Independent contractors of the Agents are not insureds.

§ 326.4 Reports of accidents and occurrences.

The Agent shall report every accident or occurrence of a P&I nature promptly to both the Director, Office of Trade Analysis and Insurance, Maritime Administration, 500 Seventh Street, SW., Room 8121, Washington, DC 20590, Tel. (202) 366-1461, and the contracting officer named in the Agreement. If MARAD has obtained P&I insurance through a marine insurance underwriter, the Agent also shall concurrently file a report of such accident or occurrence with the underwriter. MARAD shall disclose full de-

tails as the identity of such underwriter to the Agent.

§ 326.5 Report of claims.

The Agent also shall submit a quarterly report of all claims of a P&I insurance nature to the Director, Office of Trade Analysis and Insurance. The report shall contain all relevant information, e.g., the names of the vessels and of the claimant, the date of the injury or occurrence, the amount claimed, the basis for any payments already disbursed in behalf of the United States, estimated future costs and an evaluation of the claim of the merits.

§ 326.6 Settlement of claims.

(a) After ascertaining from MARAD the availability of funds, the Agent is authorized to settle individual claims of a P&I insurance nature that do not exceed \$5,000. For a settlement in excess of \$5,000, the Agent shall obtain MARAD's prior approval through the Director, Office of Trade Analysis and Insurance. If MARAD has placed the P&I insurance with an insurance underwriter, the Agent also shall obtain the prior approval of the underwriter to settle claims.

(b) The amount of individual claims that do not exceed the Agent's limit for settlement shall be chargeable by the Agent to the vessel expense and shall be accounted for in accordance with current accounting instructions of MARAD.

(c) When settling any such claim, the Agent shall advise the claimant that such settlement shall be accounted for in accordance with current accounting instructions, and shall also advise the claimant that such settlement is not to be construed as an admission of liability by or on behalf of the United States, the Agent or any other person.

(d) The Agent shall apply sound judgment and follow standard practices of vessel operators in the settlement or other disposition of such P&I insurance claims, and shall settle such claims only when the settlement is adequately supported by all the facts and circumstances and is in the best interest of the United States.

§ 326.7

§ 326.7 Litigation.

(a) If a court suit of a P&I nature is filed which arises out of the activities of the Agent under its Agreement, wherein the Agent is named as the party defendant or one of the parties' defendant irrespective of whether the risk is covered by P&I insurance, the Agent shall immediately forward copies of the pleading and all other related legal documents, by first class mail, to the Chief Counsel, Maritime Administration, Department of Transportation, Washington, DC 20590, and to the Attorney General, Attn: Civil Division, Torts Branch, Department of Justice, Washington, DC 20530. No agent or authorized subagent shall incur any legal expenses in connection with any claim of a P&I nature, unless approved in advance by MARAD, and by the underwriter, where applicable. However, the Agent may incur legal expenses if the mission of the vessel will be frustrated or impeded and/or time will not permit such prior approval.

(b) In the event of any attachment or seizure of a vessel, whether or not the risk is of a P&I nature, the Agent shall immediately notify the Chief Counsel, Maritime Administration, Washington, DC 20590, Tel. (202) 366-05711, by telegram, radio, or cable.

PART 327—SEAMEN'S CLAIMS; ADMINISTRATIVE ACTION AND LITIGATION

Sec.

327.1 Purpose.

327.2 Statutory provisions.

327.3 Required claims submission.

327.4 Claim requirements.

327.5 Filing of claims.

327.6 Notice of allowance or disallowance.

327.7 Administrative disallowance presumption.

327.8 Court action.

AUTHORITY: 46 app. U.S.C. sections: 1114(b), 1241a; 50 U.S.C. app. 1291(a).

SOURCE: 56 FR 50275, Oct. 4, 1991, unless otherwise noted.

§ 327.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 of this part and the administrative allowance, or disallowance (actual and presumed), of such

46 CFR Ch. II (10-1-00 Edition)

claims, in whole or in part, filed by officers and members of crews (hereafter referred to as "seamen") employed on vessels as employees of the United States through the National Shipping Authority (NSA), Maritime Administration (MARAD), or successor.

§ 327.2 Statutory provisions.

(a) In connection with the Vessel Operations Revolving Fund created for the purpose of carrying out the vessel operating functions of the Secretary of Transportation, the Third Supplemental Appropriation Act, 1951 (46 app. U.S.C. 1241a), provides, in part:

That the provisions of sections 1(a), 1(c), 3(c) and 4 of Public Law 17, Seventy-eighth Congress (57 Stat. 45), as amended, shall be applicable in connection with such operations and to seamen employed through general agents as employees of the United States, who may be employed in accordance with customary commercial practices in the maritime industry, notwithstanding the provisions of any law applicable in terms to the employment of persons by the United States.

(b) Section 1(a) of Public Law 17 (50 U.S.C. app. 1291(a)), as amended, provides that:

(a) Officers and members of crews (hereinafter referred to as "seamen") employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration shall, with respect to (1) laws administered by the Public Health Service and the Social Security Act, as amended by subsection (b) (2) and (3) of this section; (2) death, injuries, illness, maintenance and cure, loss of effects, detention, or repatriation, or claims arising therefrom not covered by the foregoing clause (1); and (3) collection of wages and bonuses and making of allotments, have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. * * *. Claims arising under clause (1) hereof shall be enforced in the same manner as such claims would be enforced if the seamen were employed on a privately owned and operated American vessel. Any claim referred to in clause (2) or (3) hereof shall, if administratively disallowed in whole or in part, be enforced pursuant to the provisions of the Suits in Admiralty Act, notwithstanding the vessel on which the seaman is employed is not a merchant vessel within the meaning of such Act. * * *. When used in this subsection the term "administratively disallowed"